

Attorney Docket No. BSCU-032/02US

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Ernest J. ST. PIERRE

Serial No.: 10/765,382

Examiner: Bruce E. Snow

Confirmation No.: 2525

Art Unit: 3738

Filed: January 27, 2004

For: **MEDICAL STENT AND RELATED METHODS**

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U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Amendment  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

**TERMINAL DISCLAIMER**

Boston Scientific Scimed, Inc. represents that it is the owner of the entire right, title, and interest of U.S. Patent No. 6,620,202, filed on October 16, 2001, by virtue of an assignment from Benjamin J. Bottcher and Michael Grasso (all of the inventors) to Scimed Life Systems, Inc. executed on January 4, 2002 and December 14, 2001, respectively, and recorded at Reel 01257, Frame 0270 and a change of name document indicating that Scimed Life Systems, Inc. changed its name to Boston Scientific Scimed, Inc. (a copy of which is attached hereto). The assignment from the inventors to Scimed Life Systems, Inc. covers all applications that claim priority to U.S. Patent No. 6,620,202, including continuation applications.

Boston Scientific Scimed, Inc. represents that it is the owner of the entire right, title, and interest of the above-captioned Application No. 10/765,382, filed on January 27, 2004, by virtue of an assignment from Ernest J. St. Pierre (the inventor) to Scimed Life Systems, Inc. executed on February 25, 2002 and recorded at Reel 016644, Frame 0915 and a change of name document indicating that Scimed Life Systems, Inc. changed its name to Boston Scientific Scimed, Inc.

The name change document was executed on December 22, 2004 and is recorded at Reel 016645, Frame 0033.

Boston Scientific Scimed, Inc. hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Patent No. 6,620,202. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6,620,202 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§154 to 156 and 173 of U.S. Patent No. 6,620,202, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Dated: May 12, 2006

Signature:   
Name: Jeff Z. Mann  
Title: Assistant Secretary  
Company: Boston Scientific Scimed, Inc.

*State of Minnesota*

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# **SECRETARY OF STATE**

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## **CERTIFICATE OF MERGER**

I, Mary Kiffmeyer, Secretary of State of Minnesota, keeper of the Great Seal of the State and custodian of the documents pertaining to businesses governed by the laws of this State, do hereby certify that: the entities listed below have merged under the provisions of Minnesota law and have designated the surviving entity listed below. I further certify that the merger documents indicate the name change shown below and were filed on and are effective on the dates listed below.

### **PARTICIPATING ENTITIES:**

MN: SciMed Life Systems, Inc.  
MN: Boston Scientific Scimed, Inc.

### **SURVIVING ENTITY:**

MN: SciMed Life Systems, Inc.

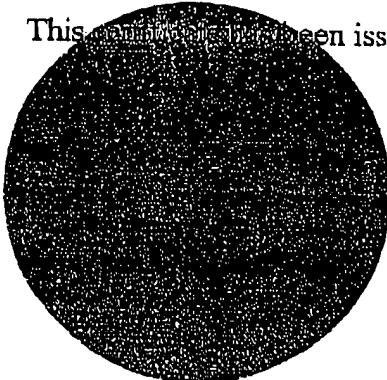
**FILING DATE: 12/22/2004**

**NAME CHANGE: Boston Scientific Scimed, Inc.**

**NAME CHANGE FILING DATE: 12/22/2004**

**EFFECTIVE DATE: January 1, 2005 @12:01am**

This certificate has been issued on: 1/10/2005



*Mary Kiffmeyer*  
Secretary of State.

**ARTICLES OF MERGER OF  
BOSTON SCIENTIFIC SCIMED, INC.  
WITH AND INTO  
SCIMED LIFE SYSTEMS, INC.**

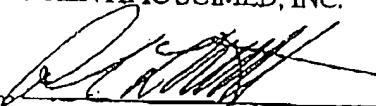
Pursuant to Minnesota Business Corporation Act, Section 302A, the undersigned, Boston Scientific Scimed, Inc., a Minnesota corporation ("BSS"), and Scimed Life Systems, Inc., a Minnesota corporation ("Scimed Life"), hereby adopt the following Articles of Merger for the purpose of merging BSS with and into Scimed Life, with Scimed Life being the surviving corporation.

1. The Agreement and Plan of Merger between BSS and Scimed Life dated as of December 15, 2004 (the "Merger Agreement"), as required by Minnesota Business Corporation Act, Section 302A.615, subdivision 1, is attached hereto as Exhibit I.
2. The Board of Directors and sole shareholder of BSS approved the Merger Agreement in a joint written action dated as of December 15, 2004 pursuant to Minnesota Business Corporation Act, Section 302A.613.
3. The Board of Directors and all of the shareholders of Scimed Life approved the Merger Agreement in a joint written action dated as of December 15, 2004 pursuant to Minnesota Business Corporation Act, Section 302A.613.
4. The name of the surviving corporation shall be Boston Scientific Scimed, Inc.
5. The merger shall be effective upon the later of 12:01 a.m. on January 1, 2005 or the filing of these Articles of Merger with the Secretary of State of the State of Minnesota.

IN WITNESS WHEREOF, BSS and Scimed Life have caused these Articles of Merger to be executed by their respective officers thereunto duly authorized this 22 day of December, 2004.

BOSTON SCIENTIFIC SCIMED, INC.

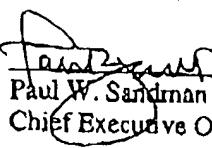
By:

  
Paul A. LaViolette

Chief Executive Officer and President

SCIMED LIFE SYSTEMS, INC.

By:

  
Paul W. Sandman

Chief Executive Officer

PLAN OF MERGER  
OF  
BOSTON SCIENTIFIC SCIMED, INC.  
INTO  
SCIMED LIFE SYSTEMS, INC.

1. Scimed Life Systems, Inc ("Scimed Life") is a business corporation whose jurisdiction of organization is the State of Minnesota. Boston Scientific Scimed, Inc. ("BSS") is a business corporation whose jurisdiction of organization is the State of Minnesota.
2. BSS (the non-surviving corporation) hereby merges with and into Scimed Life (the surviving corporation) pursuant to the provisions of Section 302A.601 of the Minnesota Business Corporation Act.
3. The separate existence of BSS shall cease upon the effective date of the merger pursuant to the provisions of the Minnesota Business Corporation Act, and Scimed Life shall continue its existence as the surviving corporation pursuant to the provisions of the Minnesota Business Corporation Act.
4. The name of the surviving corporation shall be Boston Scientific Scimed, Inc.
5. The merger described herein shall be effective (the "Effective Time") upon the later of 12:01 a.m. on January 1, 2005 or the filing of the Articles of Merger with the Secretary of State of the State of Minnesota.
6. The 4,919,847 shares of common stock, \$.01 par value, of BSS issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for 628 validly issued, fully paid and nonassessable shares of common stock, \$.05 par value of the surviving corporation, and a new certificate shall be issued representing such shares.
7. The directors of BSS immediately prior to the Effective Time shall be the directors of the surviving corporation, and the officers of BSS immediately prior to the Effective Time shall be the officers of the surviving corporation.
8. This plan may be terminated and the merger abandoned by the boards of directors of Scimed Life and BSS at any time prior to the Effective Time.
9. The officers of each of BSS and Scimed Life are authorized, empowered, and directed to take any and all actions that, in their discretion, are necessary to consummate the transactions contemplated by the Plan of Merger or which may be in any way necessary or proper to effect such merger.

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EXHIBIT I

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Merger Agreement") is made and entered by and between Scimed Life Systems, Inc., a Minnesota corporation ("Scimed Life"), and Boston Scientific Scimed, Inc., a Minnesota corporation ("BSS"), as of the 15th day of December, 2004.

WHEREAS, Boston Scientific Corporation, a Delaware corporation ("BSC"), is the sole shareholder of BSS and holds 4,919,847 of the outstanding shares of common stock of BSS;

WHEREAS, BSC and Boston Scientific Wayne Corporation, a New Jersey corporation and a subsidiary of BSC ("Wayne"), are the shareholders of Scimed Life, with BSC holding 10,000 of the outstanding shares of common stock of Scimed Life and Wayne holding 354 of the outstanding shares of common stock of Scimed Life;

WHEREAS, BSC, Wayne, BSS and Scimed Life desire that, following the effective time of the merger, BSC shall hold 10,628 of the outstanding shares of common stock of the surviving corporation and Wayne shall hold 354 shares of common stock of the surviving corporation;

WHEREAS, the parties intend that the merger contemplated hereby shall be a tax-free reorganization under Sections 368(a)(1)(A) and 368(a)(1)(D) of the Internal Revenue Code of 1986, as amended, and that this Merger Agreement shall constitute a plan of reorganization;

WHEREAS, the respective boards of directors of BSS and Scimed Life have, by resolutions duly adopted, determined that a merger of BSS with and into Scimed Life (the "Merger") in accordance with the terms of this Merger Agreement and the applicable provisions of the Minnesota Business Corporation Act, as amended, is in the best interests of each such party and its respective shareholders; and

WHEREAS, 100% of the shareholders of each of BSS and Scimed Life have approved and adopted the terms of this Merger Agreement and the Merger;

NOW, THEREFORE, the parties hereto agree as follows:

1. Merger. The Merger shall take effect in accordance with the plan of merger, attached hereto as Exhibit A (the "Plan of Merger"), and incorporated into this Merger Agreement.

2. Governing Law. The internal law, without regard for conflicts of laws principles, of the State of Minnesota will govern all questions concerning the construction,

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validity and interpretation of this Merger Agreement and the performance of the obligations imposed by this Merger Agreement.

3. Assignment. This Merger Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, except that neither this Merger Agreement nor any of the rights, interests or obligations hereunder may be assigned by any party hereto without the prior written consent of the other party hereto.

4. Amendment and Waiver. The parties may, by written agreement, waive compliance with or modify, amend or supplement any of the covenants or agreements contained in this Merger Agreement.

5. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, or mailed by first class mail, return receipt requested, or when receipt is acknowledged by return telecopy if telexcopied, to the address appearing on the corporate records of each of the parties hereto (or to such other address as a party may designate by notice to the other).

6. Counterparts. This Merger Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOP, the parties hereto have caused this Merger Agreement to be duly executed as of the day and year first above written.

BOSTON SCIENTIFIC SCIMED, INC.

By:

  
Paul A. LaViolette  
Chief Executive Officer and President

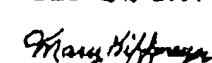
SCIMED LIFE SYSTEMS, INC.

By:

  
Paul W. Sandman  
Chief Executive Officer

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED

DEC 22 2004

  
Mary Hiffmeyer  
Secretary of State